THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21575 of 1995

ORAL ORDER:

Aggrieved by the award of the Labour Court III, Hyderabad in I.D.No.658 of 1993 dated 17.6.1994 and seeking a consequential direction to respondents 1 and 2 to reinstate him into service with full back wages and other attendant benefits, including regularization of his services as Pump Mechanic, the present writ petition is filed.

Facts in brief are that the petitioner filed an application under Section 2-A(2) of the Industrial Disputes Act before the Labour Court claiming that he was appointed as a Pump Mechanic by the Deputy Executive Engineer, Kollapur Sub-Division Panchayat in January 1983 and since then he had worked satisfactorily, that subsequently his services were terminated orally and since he had put in more than 240 days of service, termination of his services without complying with the provisions of section 25-F of the Industrial Disputes Act was illegal. Petitioner would state that while his several representations were of no avail, other employees who had approached, this Court, by filing W.P.2902 of 1984, were successful and that this Court had directed their reinstatement.

Respondents, in their counter affidavit before the Labour Court, placed reliance on G.O.Ms.No143 dated 16.3.1984 to contend that the Government had imposed a ban on recruitment of N.M.Rs. Reliance was placed by the respondents on G.O.Ms.No.763 Panchayat Raj Department in support of their contention that the minimum qualification for appointment as a Pump Mechanic was L.M.E. or I.T.I. with three years experience and since the petitioner did not possess the requisite qualification, he could not have been appointed. Respondents denied that the petitioner had worked for three years and stated that he had worked from March 1986 till April, 1987 and in each month he worked only for 15 days and he did not complete 240 days service as alleged. While neither oral evidence was adduced nor were documents marked on behalf of the workman, Exs.M-1 to M-9 were marked on behalf of the respondents. Respondents contended that the Deputy Executive Engineer, who

issued Exs.M-2 and M-3, was not competent to appoint casual workman on daily wages in view of G.O.Ms.No.143 dated 16.3.1984, that there was a ban on recruitment of N.M.Rs. on daily wage basis and in view of G.O.Ms.No.763 only candidates who possessed the prescribed qualifications could be appointed as a Pump Mechanic. The Labour Court held that, in view of the objections taken by the respondents that the Deputy Executive Engineer, Panchayat Raj had no authority to appoint N.M.Rs, the petitioner should have taken necessary steps to call for the records to establish that he had worked as an N.M.R on daily wages right from January, 1983 to March, 1986 in the post of Pump Mechanic. The Labour Court held that Exs.W-1 and W-2 could not be relied upon as they were not proved, that the evidence placed by the petitioner was not sufficient to hold that he had worked for a period of 240 days in a calendar year and that the allegation of violation of Section 25-F of the Industrial Disputes was untenable.

It is well settled by a catena of judgments in **Manager, Reserve Bank of India, Bangalore v S. Mani**; **Batala Coop. Sugar Mills Ltd v. Sowaran Singh** .; **Surendranagar District Panchayat v. Dahyabhai Amarsinh**; **Chief Engineer (construction) v. Keshava Rao (dead) by Lrs ; Range Forest Officer v. S.T.Hadimini** that the burden, to prove that he had put in a minimum of 240 days service during the period of 12 months prior to the date of his termination, is on the workman and in the absence of the petitioner having discharged this burden, it cannot be said that the mandatory requirement under Section 25-F is violated. This Court, in Certiorari proceedings, exercises supervisory jurisdiction over Labour Couurts/Industrial Tribunals and does not sit in appeal over the findings recorded by them.. The Labour Court, on appreciation of evidence on record, came to the conclusion that the petitioner herein had not put in the minimum required service of 240 days in a calendar year of 12 months. Since the minimum required service to be put in order to attract the provisions of Section 25F of the Industrial Disputes Act, is that the workman should have completed 240 days service in the 12 months period prior to his termination, which the petitioner in the present case has not, it cannot be said that the mandatory provisions of Section 25-F of the Industrial Disputes Act have been violated.

The award of the Labour Court III, Hyderabad, in I.D.No.658 of 1993 dated 17-6-1994, does not call for interference. The writ petition fails and is accordingly

dismissed. No costs.

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23-3-2006

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